IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Appellate Side

Writ Petition No.27l0 of 2005

The Railwaymen's Coop Consumers Society Ltd Lonawala, Pune ..Petitioner
vs
Employees State Insurance Corpn Pune & ors ...Respondents

Mr V B Borwankar for petitioner

CORAM: A.P.SHAH J.

Dated l7.l0.2005

P.C:

. The challenge is to the order passed by the Employees Insurance Court in proceedings under section 75(l)(a) of the Employees State Insurance Act(for short "ESI Act"). Learned counsel appearing for the petitioner raised two submissions before me. He submitted that the provisions of the ESI Act are not applicable to the petitioner society which is constituted solely for the benefits of its members- employees of Railways. Secondly, accordingly to him the medical facilities provided to the employees are on better footing than the benefits under the ESI Act and therefore the petitioner society is exempt under the proviso to section l(4) of the ESI Act. I do not find any substance in either of these submissions.

2. The argument of the learned counsel that the petitioner society is formed with the object only to benefit its members is contrary to records. Clause 3(a) of the byelaws of the petitioner society goes to show that the object of the society is to sell to its members as well as other consumers all articles of consumption. The petitioner is running the business under the name and style of Apna Bhandar where goods are sold to members of public and thereby society is earning profit. When the Inspector visited the petitioner's store he noticed in all 44 employees working in main section, l4 employees working in canteen section and 4 employees working in milk section as on 3l.3.l990. The list of employees bears the signature of then secretary of the petitioner society. The employees employed by the petitioner society are not employees of the railway administration but they are employees of the petitioner society. The provisions of the ESI Act are thus clearly attracted to the petitioner's establishment.

3. As regards the second contention there is absolutely no material to show that any medical benefits are received by its employees from railway administration. There is nothing to show that the

employees of the petitioner society can claim such benefit from the railway administration as a matter of right and even if some employees had received such benefit from the railway administration the employees cannot be deprived of the benefit conferred by the ESI Act. Petition is dismissed.